

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201368637
Issue No.: 2009, 4009
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Bay County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 29, 2014. Claimant personally appeared and provided testimony. The department was represented by [REDACTED] [REDACTED] an assistance payments supervisor with the department's Bay County office.

ISSUE

Whether the Department of Human Services (the Department) properly determined that Claimant was no longer disabled and properly deny his review application for State Disability Assistance (SDA) and Medical Assistance (MA-P) based upon medical improvement?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was a recipient of MA-P and SDA benefits and his case was scheduled for review in July 2013.
2. On May 29, 2013, Claimant was given a Medical Determination Verification Check list, with a deadline for completion of the enclosed proofs by June 10, 2013.
3. On August 23, 2013, the Medical Review Team denied Claimant's application. (Depart Ex. A, pp 1-2).

4. On September 5, 2013, the department caseworker sent Claimant notice that MA-P and SDA benefits would be closed effective October 1, 2013 based upon medical improvement.
5. On September 10, 2013, Claimant filed a request for a hearing to contest the department's negative action.
6. On November 17, 2013, the State Hearing Review Team denied Claimant's Redetermination finding Claimant retains the capacity to perform a wide range of simple, unskilled work. (Department Exhibit B, pp. 1-2)
7. Claimant is 41 years old.
8. Claimant completed a GED.
9. Claimant is able to read, write, and perform basic math skills with difficulty.
10. Claimant is not working and has not worked in 20 years due to incarceration.
11. Claimant lives with his parents.
12. Claimant testified that he cannot perform household chores.
13. Claimant's limitations have lasted for 12 months or more.
14. Claimant suffers from bipolar disorder, attention deficit hyperactivity disorder, and personality disorder.
15. Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

CONCLUSIONS OF LAW

MA-P is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA-P pursuant to MCL 400.10 *et seq.* and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

The SDA program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10 *et seq.* and MAC R 400.3151- 400.3180. Department policies are found in BAM, BEM and RFT.

The Department conforms to State statute in administering the SDA program. 2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

(a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.

(b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

In order to receive MA benefits based upon disability or blindness, Claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. (20 CFR 416.905).

Once an individual has been determined to be "disabled" for purposes of disability benefits, continued entitlement to benefits must be periodically reviewed. In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process by which current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual's ability to work are assessed. Review may cease and benefits may be continued at any point if there is a substantial evidence to find that the individual is unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

The first step to be considered is whether the claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, Claimant is not working. Therefore, Claimant is not disqualified at this step in the evaluation.

In the second step, the trier of fact must determine if the claimant's impairment (or combination of impairments) meets or equals the severity of an impairment listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that Claimant's medical record does not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Accordingly, the sequential evaluation process must continue.

In the third step of the sequential evaluation, the trier of fact must determine whether there has been medical improvement as defined in 20 CFR 416.994(b)(1)(i), 20 CFR 416.994(b)(5)(iii). Medical improvement is any decrease in the medical severity of your impairment(s) which was present at the time of the most recent favorable medical decision that you were disabled or continued to be disabled. A determination that there has been a decrease in medical severity must be based on changes (improvement) in the symptoms, signs and/or laboratory findings associated with your impairment(s) (see §416.928). If there has been medical improvement as shown by a decrease in medical severity, the trier of fact must proceed to Step 4 (which examines whether the medical improvement is related to the claimant's ability to do work). If there has been no decrease in medical severity and, thus, no medical improvement, the trier of fact moves to Step 5 in the sequential evaluation process.

In this case, Claimant was most recently approved for MA-P and SDA as of June 2011. The Administrative Law Judge, after comparing Claimant's past medical documentation with current medical documentation, finds there is no medical improvement.

In the fifth step of the sequential evaluation, the trier of fact must consider whether any of the exceptions in 20 CFR 416.994(b)(3) and (b)(4) applies. If none of them applies, Claimant's disability must be found to continue. 20 CFR 416.994(b)(5)(v).

In the first group of exceptions to medical improvement (i.e., when disability can be found to have ended even though medical improvement has not occurred), found in 20 CFR 416.994(b)(3), is as follows:

- *Substantial evidence shows that you are the beneficiary of advances in medical or vocational therapy or technology (related to your ability to work).*
- *Substantial evidence shows that you have undergone vocational therapy (related to your ability to work).*

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- *Substantial evidence shows that based on new or improved diagnostic or evaluative techniques your impairment(s) is not as disabling as it was considered to be at the time of the most recent favorable decision.*
- *Substantial evidence demonstrates that any prior disability decision was in error.*

In examining the record, this Administrative Law Judge finds that there is nothing to suggest that any of the exceptions listed above applies to Claimant's case.

The second group of exceptions to medical improvement, found at 20 CFR 416.994(b)(4), is as follows:

- *A prior determination or decision was fraudulently obtained.*
- *You did not cooperate with us.*
- *Claimant cannot be found.*
- *Claimant failed to follow prescribed treatment which would be expected to restore your ability to engage in substantial gainful activity.*

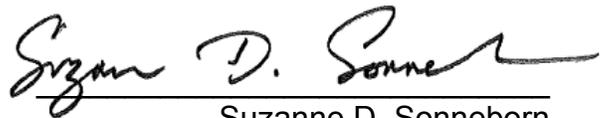
After careful review of the record, this Administrative Law Judge finds none of the above-mentioned exceptions applies to Claimant's case. Accordingly, per 20 CFR 416.994, this Administrative Law Judge concludes that Claimant's disability for purposes of Medical Assistance and State Disability Assistance must continue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant continues to be medically disabled.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to maintain Claimant's eligibility for MA and SDA if otherwise eligible for program benefits. A review of this case shall be set for April 2015.

It is SO ORDERED.



Suzanne D. Sonneborn
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 10, 2014

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NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

SDS/hj

cc:

